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Message Text

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ACTION ACDA-10

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O R 131729Z AUG 75
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 5246
INFO USDEL SALT TWO GENEVA
ERDA GERMANTOWN

UNCLAS SECTION 1 OF 2 GENEVA 6332

DISTO

E.O. 11652: N/A
TAGS: CCD, PARM
SUBJECT: CCD - NWFZ STUDY, CHAPTER FIVE (VERIFICATION AND CONTROL)

REF: A) GENEVA 6321 B) GENEVA 6328

1. FOLLOWING IS TEXT OF CHAPTER FIVE (VERIFICATION
AND CONTROL) IN FORM WHICH IS EXPECTED TO BE APPROVED
AD REFERENDUM BY EXPERTS AT EVENING MEETING, AUGUST 13.

BEGIN TEXT: V. VERIFICATION AND CONTROL
1. OBJECTIVE AND SCOPE
1. THE QUESTION OF VERIFICATION AND CONTROL OF COMPLIANCE BY
STATES PARTIES WITH THE OBLIGATIONS OF THEIR AGREEMENTS IN THE
FIELD OF ARMS LIMITATION, DISARMAMENT AND COLLATERAL DISARMAMENT
MEASURES HAS ALWAYS BEEN IN THE FOCUS OF NEGOTIATIONS. THE
PAST SOLUTIONS TO THAT PROBLEM HAVE DIFFERED FROM TREATY TO
TREATY, DEPENDING UPON THE NATURE AND THE SCOPE OF OBLIGATIONS
CONTAINED THEREIN.

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2. AN EFFECTIVE VERIFICATION SYSTEM WOULD CREATE CONFIDENCE AMONG

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THE STATES MEMBERS OF THE ZONE AND IN THEIR RELATION TO EXTRA-ZONAL STATES. IT WOULD ALSO OFFER ASSURANCES THAT THERE WAS NO DIVERSION BY ZONAL STATES OF NUCLEAR MATERIAL TO NUCLEAR WEAPONS AND WOULD THERRBY FACILITATE CO-OPERATION IN THE PEACEFUL USE OF NUCLEAR ENERGY AMONG THE ZONAL STATES AND BETWEEN THEM AND STATES OUTSIDE THE ZONE.

3. IN ORDER TO ENSURE THAT A NUCLEAR-WEAPON-FREE ZONE WILL FUNCTION EFFECTIVELY, IT IS NECESSARY TO DEVISE A SYSTEM OF VERIFICATION AND CONTROL TO ENSURE THAT ALL THE STATES INVOLVED ARE COMPLYING STRICTLY WITH THEIR OBLIGATIONS. THE PRECISE NATURE OF THE VERIFICATION AND CONTROL SYSTEM WOULD VARY FROM REGION TO REGION AND WOULD DEPEND UPON THE TYPE OF OBLIGATIONS WHICH ARE TO BE UNDERTAKEN BY PARTIES TO A TREATY ESTABLISHING THE NUCLEAR-WEAPON-FREE ZONE. GENERALLY, THE TREATY WOULD HAVE TO INCLUDE PROVISIONS FOR VERIFYING THE COMPLIANCE WITH OBLIGATIONS AND THE CONSIDERATION OR SETTLEMENT OF ISSUES OF NON-COMPLIANCE THAT MAY ARISE. MOST EXPERTS FELT, IN THIS CONNECTION, THAT THE MEASURES OF VERIFICATION AND CONTROL SHOULD BE EXTENDED TO ALL NUCLEAR ACTIVITIES IN ZONAL STATES SO AS TO PREVENT ANY DIVERSION FROM PEACEFUL PURPOSES. PRESCRIBED SYSTEMS MAY INCLUDE BOTH ROUTINE AND AD HOC PROCEDURES AND SHOULD ASSURE A SUFFICIENT PROBABILITY OF DETECTING VIOLATIONS. SUCH SYSTEMS SHOULD BE BASED ON THE PRINCIPLE OF COMPLETE EQUALITY OF STATES.

4. AN EFFECTIVE VERIFICATION AND CONTROL SYSTEM MIGHT GENERALLY INCLUDE FACT-FINDING MACHINERY, A PROCEDURE FOR CONSULTATIONS BETWEEN INDIVIDUAL STATES AND A FORM FOR MULTILATERAL CONSULTA-TIONS, RECOMMENDATIONS AND OTHER ACTIONS. IF OTHER TREATIES ON ARMS LIMITATION, DISARMAMENT AND COLLATERAL DISARMAMENT MEASURES ARE IN FORCE FOR ZONAL STATES, THE HARMONIZATION AND CO-OPERATION BETWEEN THEIR RESPECTIVE CONTROL SYSTEMS COULD BE BENEFICIAL. THE CO-OPERATION BETWEEN CONTROL SYSTEMS OF VARIOUS NUCLEAR-WEAPON-FREE ZONES MIGHT ALSO BE OF VALUE.

5. AS TO THE FACT-FINDING PART OF A CONTROL SYSTEM, STATES WOULD ALWAYS HAVE THE RIGHT TO USE THEIR NATIONAL MEANS OF VERIFICATION IN ACCORDANCE WITH INTERNATIONAL LAW. ADDITIONAL INVESTIGATION MEASURES REQUIRING THE CO-OPERATION OF PARTIES SHOULD BE PRESCRIBED IN THE TREATY IN ORDER TO ENSURE THE EFFECTIVENESS OF THE ZONE.
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6. THE TASK OF VERIFYING A NUCLEAR-WEAPON-FREE ZONE AGREEMENT WOULD FALL INTO TWO MAIN CATEGORIES. ONE IS TO ENSURE THAT ZONAL STATES DO NOT DEVELOP OR PRODUCE NUCLEAR WEAPONS. THE OTHER IS TO ENSURE THAT THE ZONE IS EFFECTIVELY FREE OF NUCLEAR WEAPONS COMING FROM OUTSIDE SOURCES AND THAT SUCH WESPONS ARE WITHDRAWN IF THEY ARE PRESENT IN THE ZONE. THE FIRST ASPECT COULD BE COVERED BY APPLYING IAEA SAFEGUARDS TO ALL NUCLEAR MATERIALS IN ZONAL

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STATES. SUCH SAFEGUARDS WOULD PROVIDE BOTH FOR NECESSARY VERIFICATION ON A ROUTINE BASIS THAT SUCH MATERIALS ARE NOT DIVERTED TO NUCLEAR WEAPONS AND ALSO FOR A REPORTING PROCEDURE ON DISCLOSURES OF EVENTS OF POSSIBLE NON-COMPLIANCE. SOME EXPERTS NOTED THAT THE IAEA SAFEGUARDS CAN BE APPLIED NOT ONLY TO THE USE OF PARTICULAR NUCLEAR MATERIALS, BUT CAN BE EXTENDED TO ALL PEACEFUL NUCLEAR ACTIVITIES OF STATES INCLUDED IN A ZONE IN ORDER TO PREVENT ANY DIVERSION FOR MILITARY PURPOSES, AS CONTEMPLATED IN A NUMBER OF SAFEGUARDS AGREEMENTS CONCLUDED BETWEEN STATES PARTIES TO THE TREATY OF TLATELOLCO AND THE IAEA. PRESENT IAEA SAFEGUARDS WOULD ONLY VERIFY NUCLEAR ACTIVITIES THAT ARE DECLARED TO THE AGENCY AS PRESCRIBED IN SAFEGUARDS AGREEMENTS. THEREFORE, A TASK OF THE ZONE'S VERIFICATION AND CONTROL SYSTEM SHOULD BE TO ENSURE THAT ALL NUCLEAR ACTIVITIES IN THE ZONE HAVE IN FACT BEEN DECLARED TO THE IAEA.

7. IN REGARD TO THE SECOND ASPECT OF VERIFICATION, AS THERE ARE LIMITS TO WHAT TASKS CAN BE UNDERTAKEN BY THE IAEA, IT COULD BE NECESSARY, DEPENDING ON THE PROVISIONS OF THE ZONE TREATY IN EACH CASE, TO PROVIDE ADDITIONAL MACHINERY TO VERIFY THAT THE ZONE IS EFFECTIVELY FREE OF NUCLEAR WEAPONS COMING FROM OUTSIDE SOURCES, AND IF SUCH WEAPONS ARE PRESENT IN THE AREA, THAT THEY ARE WITHDRAWN. SOME EXPERTS FELT THA SUCH ADDITIONAL VERIFICATION COULD IMPLY PERMITTING INSPECTORS TO VISIT MILITARY INSTALLATIONS, NAVAL VESSELS AND MILITARY AIRCRAFT WITHIN THE ZONE AND THATIT COULD ALSO PROVIDE, IF PRESCRIBED IN THE ZONE TREATY, THAT NUCLEAR WEAPONS ARE NOT TRANSPORTED OUTSIDE THE ZONE BY SHIPS AND AIRPLANES BELONGING TO ZONAL STATES. SOME EXPERTS POINTED OUT THAT ADEQUATE VERIFICATION IN ANY AREA OF THE HIGH SEAS, IF SUCH AREAS ARE INCORPORATED IN NUCLEAR-WEAPON-FREE ZONES AND IN MILITARY BASES OF NUCLEAR-WEAPON STATES, IF SUCH BASES ARE SITUATED IN NUCLEAR-WEAPON-FREE ZONES, WOULD RAISE SPECIFIC PROBLEMS WHICH SHOULD BE FULLY TAKEN INTO ACCOUNT IN THE ESTA-
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BLISHMENT OF SUCH ZONES. WITH REFERENCE TO THE IDEA THAT A NUCLEAR-WEAPON-FREE ZONE COULD INCLUDE HIGH SEAS, STRAITS USED FOR INTERN-TIONAL SHIPPING, AND INTERNATIONAL AIRSPACE, SEVERAL EXPERTS NOTED THAT THIS IDEA NOT ONLY RAISES SERIOUS, AND PERHAPS INSUPERABLE, SECURITY, POLITICAL AND LEGAL PROBLEMS, BUT THAT IT WOULD BE EXTREMELY DIFFICULT TO VERIFY THE NUCLEAR-WEAPON-FREE ZONE STATUS OF SUCH AREAS.

8. EXISTING REGIONAL OR INTERNATIONAL ORGANIZATIONS MIGHT BE ABLE TO UNDERTAKE SUCH VERIFICATION RESPONSIBILITIES DESCRIBED ABOVE. HOWEVER, IN MANY REGIONS IT MIGHT BE PREFERABLE TO ESTABLISH STANDING REGIONAL BODIES OR SPECIAL ORGANS FOR THE IMPLEMENTATION OF VERIFICATION PROCEDURES OTHER THAN THOSE OF THE IAEA. ONE OF THE FUNCTIONS OF SUCH AGENCIES COULD BE TO MONITOR AND CO-ORDINATE THE WORK OF APPROPRIATE NATIONAL AUTHORITIES RESPONSIBEL

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FOR THE NECESSARY VERIFICATION PROCEDURES IN EACH COUNTRY PARTY TO A NUCLEAR-WEAPON-FREE ZONE AGREEMENT. SUCH REGIONAL BODIES OR ORGANS COULD CARRY OUT PERIODIC AND AD HOC INSPECTIONS.

9. SOME EXPERTS EXPRESSED THE VIEW THAT IN ESTABLISHING PROCEDURES FOR VERIFICATION THE ZONE ARRANGEMENTS COULD PROVIDE FOR A PROCESS OF RECIPROCAL INVESTIGATION AND INSPECTION AMONG MEMBERS OF THE ZONE, EITHER DIRECTLY OR THROUGH A STANDING REGIONAL BODY AND THAT A DETAILED CONSULTATION PROCEDURE WOULD PROVIDE AN IMPORTANT MEANS FOR DEALING WITH QUESTIONS OF SUSPECTED NON-COMPLAINCE.

10. IT MIGHT BE DESIRABLE TO PROVIDE FOR A MULTILATERAL BODY OF STATES PARTIES TO A NUCLEAR-WEAPON-FREE ZONE WITH THE TASK OF CONSIDERING REPORTS MADE BY A STANDING CONTROL AGENCY REGARDING THE IMPLEMENTATION OF THE PROVISIONS OF THE TREATY, AND OF MAKING RECOMMENDATIONS IN RESPECT OF SUCH IMPLEMENTATION, ON POSSIBLE INVESTIGATIONS AND INSPECTIONS, AND ON SUSPECTED VIOLATIONS. ONE IMPORTANT RESPONSIBILITY OF SUCH A MULTILATERAL BODY WOULD BE TO CONSIDER ISSUES OF NON-COMPLIANCE, WHEN CONSULTATIONS BETWEEN INDIVIDUAL STATES PARTIES TO A ZONE TREATY HAVE FAILED TO SETTLE THE ISSUE. THE EXISTENCE OF SUCH A BODY SHOULD NOT EXCLUDE, HOWEVER, THE POSSIBILITY THAT ANY OUTSTANDING ISSUE ARISING DURING THE COURSE OF A CONSULTATION PROCESS ARE REFERRED TO THE UN SECURITY COUNCIL OR GENERAL ASSEMBLY, OR TO OTHER APPROPRIATE AND COMPETENT INTERNATIONAL ORGANS.

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DISTO
2. SAFEGUARDS ON PEACEFUL USES OF NUCLEAR ENERGY

11. AS ALREADY INDICATED, THE IAEA SAFEGUARDS SYSTEM COULD PLAY AN IMPORTANT ROLE IN THE VERIFICATION OF THE IMPLEMENTATION OF NUCLEAR-WEAPON-FREE ZONE PROVISIONS. THE EXACT MANDATE OF THE IAEA WOULD ESSENTIALLY BE DETERMINED BY TWO FACTORS. ONE IS THE PRECISE PROVISIONS OF THE AGREEMENTS ESTABLISHING ZONES AND THE TASKS GIVEN TO THE IAEA THEREIN. THE OTHER IS THE STATUTE THE IAEA PRESCRIBING WHAT DUTIES THE AGENCY CAN ASSUME. THE LATTER (ART.III.5) PERMITS THE AGENCY "TO APPLY SAFEGUARDS, AT THE REQUEST OF THE PARTIES, TO ANY BILATERAL OR MULTILATERAL ARRANGEMENT, OR AT THE REQUEST OF A STATE, TO ANY OF THAT STATE'S ACTIVITIES IN THE FIELD OF ATOMIC ENERGY."

12. IT WOULD THUS BE POSSIBLE TO SOLVE ONE PART OF THE VERIFICATION PROBLEM OF NUCLEAR-WEAPON-FREE ZONES, THAT OF ASSURING THAT THE NUCLEAR MATERIALS IN ZONAL STATES WOULD NOT BE USED FOR THE MANUFACTURE OF NUCLEAR WEAPONS BY APPLYING IAEA SAFEGUARDS TO ALL SUCH MATERIALS.

13. AN OBLIGATION OF THE STATES INCLUDED IN A ZONE TO SUBMIT ALL
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THEIR NUCLEAR ACTIVITIES TO IAEA SAFEGUARDS WOULD HAVE TO BE EXPRESSLY

LAID DOWN IN THE CONSTITUENT INSTRUMENT OF THE ZONE. THE NEC-ESSARY AGREEMENTS WITH IAEA MAY BE CONCLUDED IN ONE OF THREE WAYS: (A) BY LEAVING EACH STATE TO NEGOTIATE DIRECTLY WITH THE IAEA; (B) BY NEGOTIATING A COLLECTIVE AGREEMENT WITH IAEA AT THE SAME TIME AS THE CONSTITUENT TREATY; OR (C) BY INDIVIDUAL BUT SIMUL-TANEOUS NEGOTIATIONS BETWEEN IAEA AND THE PARTIES. IT COULD BE MORE EFFICIENT TO CONCLUDE A COLLECTIVE AGREEMENT WITH IAEA, PROVIDED THAT THIS COMES INTO FORCE FOR EACH STATE UPON ACCESSION TO THE TREATY CONSTITUTING THE ZONE; IN THIS WAY STATES WOULD COMPLY AT THE OUTSET WITH A CONDITION ESSENTIAL TO THE SATISFACTORY OPERATION OF THEIR ZONE. IN CASES WHERE COLLECTIVE NEGOTIATIONS ARE NOT POSSIBLE,PROVISIONS SHOULD BE MADE FOR THE SIMULTANEOUS ENTRY INTO FORCE OF THE ZONE-TREATY AND ALL SAFEGUARDS AGREE-MENTS RELATED THERETO.

14. A DESIRABLE ELEMENT IN A VERIFICATION SYSTEM WOULD BE A PROVISION THAT STATES IN A ZONE SHOULD APPLY ADEQUATE STANDARDS OF PHY-SICAL PROTECTION TO FISSIONALBE MATERIAL IN THE ZONE IN ORDER TO PREVENT UNAUTHORIZED GROUPS, BY THEFT OR OTHERWISE, FROM DIVERTING SUCH MATERIAL AND MAKING THEIR OWN NUCLEAR WEAPONS.

3. INSPECTIONS

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15. WHEN IAEA SAFEGUARDS ARE APPLIED INSPECTIONS WILL TAKE PLACE AS AN INTEGRAL PART OF THE PROCEDURE IN ACCORDANCE WITH THE SAFE-GUARDS AGREEMENTS IN FORCE.
16. A STANDING CONTROL AGENCY OF A NUCLEAR-WEAPON-FREE ZONE COULD BE EMPOWERED WITH THE TASK OF CARRYING OUT BOTH ROUTINE AND AD HOC INSPECTION WITHIN THE BOUNDARIES OF THE ZONE AS AN ELEMENT OF ITS PROCEDURE TO ENSURE THE FULFILLMENT OF ANY OBLIGATION NOT VERIFIED BY THE IAEA. SUCH INSPECTIONS COULD BE UNDERTAKEN BY THE CONTROL AGENCY ON ITS OWN INITIATIVE, AT THE REQUEST OF INDIVIDUAL STATES PARTIES TO THE ZONE TREATY OR BY A MULTILATERAL BODY INSTITUTED BY THE SAME TREATY. SOME EXPERTS NOTED THAT THIS KIND OF PROCEDURE IS PROVIDED FOR IN THE TREATY OF TLATELOLCO (ARTICLE 16).

4. ROLE OF THE IAEA, REGIONAL ORGANIZATIONS AND NATIONAL ORGANS
17. PROPER EXECUSTION OF VERIFICATION PROCEDURES MAKES CLOSE CO-
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OPERATION BETWEEN THE VARIOUS COMPETENT ORGANS OF THE INTERNATIONAL, REGIONAL AND NATIONAL LEVELS ESSENTIAL. SOME EXPERTS SUGGESTED THAT SUCH CO-OPERATION MIGHT ALSO INCLUDE SEEKING RELEVANT INFORMATION FROM OUTSIDE SOURCES, POSSIBLY ON A ROUTINE BASIS.

18. THE ROLE OF THE IAEA WOULD BE TO ASSUME, IN ACCORDANCE WITH ITS STATUTE, THE RESPONSIBILITY FOR ALL SAFEGUARDS ENVISAGED IN THE ZONE-TREATY AND SUBSEQUENT AGREEMENTS BETWEEN THE IAEA, REGIONAL ZONE AUTHORITIES AND ZONAL STATES. THE APPLICATION OF IAEA SAFEGUARDS TO THE NUCLEAR ACTIVITIES OF A COUNTRY COULD REQUIRE THE CO-OPERATION OF A NATIONAL OR REGIONAL AUTHORITY FOR ACCOUNTING AND CONTROL OF ALL NUCLEAR MATERIAL SUBJECT TO SAFE-GUARDS. MOREOVER, A REGIONAL BODY OR SPECIAL ORGAN RESPONSIBLE FOR VERIFICATION OF A ZONAL AGREEMENT COULD BE GIVEN AUTHORITY TO INVESTIGATE SUSPECTED CASES OF NON-COMPLIANCE. THE PRECISE MANDATE AND PROCEDURE OF WORK OF SUCH REGIONAL BODIES OR SPECIAL ORGANS WOULD HAVE TO BE DEFINED IN THE TREATY CONSTITUTING THE ZONE.

19. A NUCLEAR-WEAPON-FREE ZONE TREATY COULD INCLUDE PROVISIONS, AS DO SEVERAL OTHER COLLATERAL DISARMAMENT MEASURES, RECOGNIZING THE RIGHT OF PARTIES TO THE TREATY TO BRING ANY DISPUTE OR SITUATION WHICH MIGHT LEAD TO INTERNATIONAL FRICTION OR GIVE RISE TO A DISPUTE TO THE ATTENTION OF THE SECURITY COUNCIL OR THE GENERAL ASSEMBLY OF THE UNITED NATIONS. IF AN INFRINGEMENT OR VIOLATION OF A NUCLEAR-WEAPON-FREE ZONE INVOLVED A THREAT TO THE PEACE, BREACH OF THE PEACE OR ACT OF AGGRESSION, THE UN SECURITY COUNCIL WOULD HAVE THE POWER TO TAKE SUCH ACTION AS NECESSARY TO RESTORE INTERNATIONAL PEACE AND SECURITY.

20. BOTH IAEA AND REGIONAL CONTROL AGENCIES COULD BE ENTRUSTED BY

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STATES TO ASSIST IN THE CO-ORDINATION OF THE ACTIVITIES OF NATIONAL AUTHORITIES DEALING WITH VERIFICATION AND CONTROL.

21. IN CERTAIN REGIONS STATES PARTIES TO A ZONAL TREATY MAY WISH TO ASSIGN ALL VERIFICATION RESPONSIBILITIES OF A NUCLEAR-WEAPON-FREE ZONE TO A SPECIAL ORGAN WITHIN THE IAEA STRUCTURE. HOWEVER, SUCH A PROVISION WOULD GO BEYOND THE TASK AT PRESENT UNDERTAKEN BY IAEA AND MIGHT REQUIRE AN AMENDMENT OF THE AGENCY'S STATUTE.

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5. CREATION OF AD HOC AGENCIES

22. AD HOC AGENCIES MIGHT BE THE MOST USEFUL MEANS OF ORGANIZING THE EXECUTION FOR TWO REASONS: (1) EXISTING REGIONAL ORGANIZATIONS MAY NOT BE SUITED TO SUCH FUNCTIONS, BECAUSE THEIR AIMS ARE EITHER TOO GENERAL OR, ON THE CONTRARY, TOO SPECIALIZED, AND (2) THE COMPOSITION OF SUCH ORGANIZATIONS MAY NOT CORRESPOND TO THAT OF A NUCLEAR-WEAPON-FREE ZONE, BECAUSE THEY INCLUDE EITHER A GREATER NUMBER OF STATES,SOME OUTSIDE THE ZONE, OR A SMALLER NUMBER OF STATES,SOME COUNTRIES WITHIN THE ZONE NOT BEING MEMBERS. IN SUCH CASES VERIFICATION AND CONTROL INA ZONE MIGHT MORE EFFECTIVELY BE EXERCISED BY AN AD HOC AGENCY ESPECIALLY TAILORED TO THE COMPOSITION AND PURPOSES OF THE ZONE AND DESIGNED PRIMARILY FOR SUCH VERIFICATION AND CONTROL. END TEXT DALE

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